

AMENDED IN ASSEMBLY JUNE 21, 2006
AMENDED IN ASSEMBLY AUGUST 15, 2005
AMENDED IN ASSEMBLY JULY 13, 2005
AMENDED IN ASSEMBLY JUNE 27, 2005
AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 351

Introduced by Senator Soto

February 16, 2005

~~An act to add Section 50035 to the Government Code, relating to railroads. An act relating to emergency services, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 351, as amended, Soto. ~~Railroads~~—*Emergency services*: derailment evacuation plans and training.

Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail. Existing law requires the commission to require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with that office, ~~the Department of the California Highway Patrol, and designated county public safety agencies in an~~

~~endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety. Existing law requires a railroad corporation to promptly notify the office, the department, and the public safety agencies, through a communication to the Warning Center of the office, if there is a runaway train or other uncontrolled train movement threatening public safety, in accordance with the developed communications protocol and specified other agencies in the event of certain incidents threatening public safety.~~

~~Existing law sets forth the powers and duties of legislative bodies of cities, counties, and cities and counties and authorizes the undertaking of legislative actions by ordinance.~~

The existing California Emergency Services Act authorizes cities, counties, and cities and counties to establish disaster councils by ordinance, to develop plans for meeting any condition constituting a local emergency or state of emergency, including earthquakes, natural or manmade disasters specific to that jurisdiction, or a state of war emergency.

~~This bill would authorize the legislative body of a city, county, or city and county to develop rail derailment evacuation plans for populated neighborhoods adjacent to a high-volume railroad track and to establish evacuation training programs and drills. The bill would authorize the legislative body of a city, county, or city and county to delegate this authority to a local disaster council. The bill would authorize the legislative body of a city, county, or city and county to fix and collect charges to pay the costs of developing rail derailment evacuation plans for populated neighborhoods adjacent to a high-volume railroad track and for evacuation training programs and drills, including charges that vary between rail carriers by apportioning the total cost to correspond to the volume of use of the track by the various rail carriers or by any other means of apportioning costs that the legislative body determines is fair and reasonable~~
require the Office of Emergency Services, with the appropriate assistance of the commission, to require the rail carriers that transport hazardous materials utilizing railroad lines running through the County of San Bernardino to conduct, during the 2007 calendar year, a single joint exercise simulating a derailment within the County of San Bernardino, to include state, local, and private entities, according to procedures developed by the office and the commission, and subject to specified criteria. It would require the county to report on the joint exercise to the office and the commission. It would also

require the cost of the joint exercise, with a specified exception, to be born by the rail carriers transporting hazardous materials on rail lines traveling through the county, and authorize the office and the commission to provide for the assessment and expenditure of fees for that purpose, thus making an appropriation. By requiring a higher level of service of the local agencies implementing these provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~
yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) According to the Public Utilities Commission, during the*
4 *last year there have been a series of significant railroad*
5 *accidents that have caused great damage and profound concern*
6 *among many citizens of California. With increasing urbanization*
7 *and rapid economic growth forcing greater use of railroad*
8 *corridors, greater numbers and more serious accidents can be*
9 *expected unless mitigated with swift action. Federal laws are*
10 *failing to adequately address the current situation.*

11 *(b) (1) For example, on April 4, 2005, a Union Pacific train*
12 *hauling 28 cars of hazardous materials was headed north from a*
13 *Calton, California switching yard when the train jumped the*
14 *track. Two tank cars of deadly pressurized liquid chlorine and 12*
15 *other cars lay twisted just a few hundred feet away from where*
16 *hundreds of residents lived. The tank car of poisonous chlorine*
17 *gas sustained a 1 inch crack. Had it ruptured, the escaping liquid*
18 *would have formed a cloud of gas that could have killed residents*
19 *within minutes. When a similar tank broke open in January 2005*
20 *in South Carolina, nine people died.*

1 (2) *There was great confusion during the evacuation after this*
2 *accident. More than 300 people were ordered to leave their*
3 *homes. At one point, authorities mistakenly let residents back*
4 *into their homes before it was safe. Few residents knew how to*
5 *react, whether to flee or stay inside.*

6 (c) (1) *There are growing risks of train derailments and*
7 *accidents as each year freight train traffic and population grow*
8 *side by side. Rail traffic in the Inland Empire is expected to*
9 *double in 20 years.*

10 (2) *According to the United States Department of*
11 *Transportation, from 1993 through 2004, San Bernardino*
12 *County has had 620 reported spills and other*
13 *hazardous-materials incidents involving trains, more than any*
14 *other county in the nation. According to the Bureau of*
15 *Transportation Statistics and the United States Census Bureau,*
16 *rail shipments of chlorine, ammonia gas, and other poisonous*
17 *materials jumped nationally by 63 percent from 1997 to 2002,*
18 *inclusive. About 60 percent of pressurized tank cars now in use*
19 *were built before 1989, including the 1977 model found to have*
20 *had a crack in the San Bernardino derailment. Most agencies*
21 *lack an automated emergency-calling system that could warn*
22 *people about a hazardous chemical accident.*

23 (3) *In San Bernardino County, hundreds of tank cars daily roll*
24 *past schools, homes, hospitals, and freeways carrying chlorine,*
25 *liquefied petroleum gas, ammonia, methanol, and sulfuric and*
26 *hydrochloric acid. By 2025, train traffic in San Bernardino*
27 *County is projected to jump from 116 trains per day to 243.*

28 SEC. 2. (a) *The Office of Emergency Services, with the*
29 *appropriate assistance of the Public Utilities Commission, shall*
30 *require the rail carriers that transport hazardous materials*
31 *utilizing railroad lines running through the County of San*
32 *Bernardino to conduct, during the 2007 calendar year, a single*
33 *joint exercise simulating a derailment within the County of San*
34 *Bernardino, including the City of San Bernardino, in a*
35 *residential neighborhood and near a school during school hours,*
36 *according to procedures developed by the office and the*
37 *commission.*

38 (b) *The simulated derailment shall include, but not be limited*
39 *to, a joint exercise using all the state, local, and private entities*
40 *that would normally be involved in a chemical spill from a train*

1 *affecting a 5-mile radius. The exercise shall focus on evacuation*
2 *procedures, agency coordination, communications, and critical*
3 *decisions. The major objectives of the simulated derailment shall*
4 *include, but not be limited to, all of the following:*

5 *(1) Assessing internal and external communications, with*
6 *emphasis on notification procedures for communicating the*
7 *nature and scope of the emergency situation, including, but not*
8 *limited to, all of the following:*

9 *(A) Communications between the train operator and*
10 *emergency responders, including who on the train contacts the*
11 *first responders at the scene, and including a back up plan.*

12 *(B) Status of persons on board the train and what kind of*
13 *evacuation efforts will be needed.*

14 *(C) Status and location of all trains on the rail involved and*
15 *the nearby rails.*

16 *(2) Assessing the effectiveness of the emergency response*
17 *training and equipment for a train derailment hazardous*
18 *materials spill, including, but not limited to, all of the following:*

19 *(A) Identifying specialized equipment for extrication and*
20 *evacuation operations based on the types of injuries to be*
21 *expected.*

22 *(B) Identifying specialized personal protective equipment to*
23 *ensure responder safety and effectiveness.*

24 *(C) Computing how far a derailed train travels.*

25 *(3) Assessing coordination and use by all responding state,*
26 *local, and private entities participating in the National Incident*
27 *Management System.*

28 *(4) Assessing cleanup and site mitigation procedures.*

29 *(c) The San Bernardino County Office of Emergency Services*
30 *shall report its findings, based on the objectives set forth in*
31 *subdivision (b), to the office and the commission, or the entity*
32 *delegated by the commission, no later than 60 calendar days*
33 *after the joint exercise has been conducted. The findings shall*
34 *additionally include at least all of the following information:*

35 *(1) Current capabilities.*

36 *(2) The duration of the simulated derailment.*

37 *(3) Procedures that were inadequate and why they were*
38 *inadequate.*

39 *(4) Procedures that were successful and why they were*
40 *successful.*

1 (5) *Needed improvements in equipment and future training.*

2 (d) *The costs of the joint exercise, excluding the cost of local*
3 *personnel participating in the joint exercise, shall be born by the*
4 *rail carriers transporting hazardous materials on rail lines*
5 *traveling through the County of San Bernardino, in shares*
6 *proportional to their respective use of those lines. The office and*
7 *the commission shall provide for an equitable assessment on the*
8 *rail carriers of fees in amounts sufficient to reimburse those*
9 *costs, as well as for expenditure of fee revenues for*
10 *reimbursement of the costs of the joint exercise.*

11 SEC. 3. *The Legislature finds and declares that due to the*
12 *unique circumstances of the County of San Bernardino with*
13 *respect to the volume and frequency of transport of hazardous*
14 *materials over the county's rail lines, a general statute cannot be*
15 *made applicable within the meaning of Section 16 of Article IV of*
16 *the California Constitution. Therefore, the special legislation*
17 *contained in Section 2 of this act is necessarily applicable only to*
18 *the County of San Bernardino.*

19 SEC. 4. *If the Commission on State Mandates determines that*
20 *this act contains costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code.*

24 ~~SECTION 1. Section 50035 is added to the Government~~
25 ~~Code, to read:~~

26 ~~50035. (a) The legislative body of a city, county, or city and~~
27 ~~county may develop rail derailment evacuation plans for~~
28 ~~populated neighborhoods adjacent to a high-volume railroad~~
29 ~~track and may establish evacuation training programs and drills.~~
30 ~~The legislative body of a city, county, or city and county may~~
31 ~~delegate its authority pursuant to this subdivision to a local~~
32 ~~disaster council established pursuant to Section 8610.~~

33 ~~(b) The legislative body of a city, county, or city and county~~
34 ~~may fix and collect charges to pay, in whole or in part, for the~~
35 ~~costs of developing rail derailment evacuation plans for~~
36 ~~populated neighborhoods adjacent to a high-volume railroad~~
37 ~~track and for evacuation training programs and drills. The~~
38 ~~revenue obtained thereby may be in lieu of, or supplemental to,~~
39 ~~revenue obtained by the levy of taxes or other methods. The~~
40 ~~charges may vary between rail carriers by apportioning the total~~

1 cost, not otherwise offset by other available revenue, to
2 correspond to the volume of use of the track by the various rail
3 carriers. Alternatively, the governing board may apportion the
4 total cost by using any method which it determines to be fair and
5 reasonable in apportioning the expense of responding to potential
6 threats to the health and safety of persons living and working
7 near the high-volume railroad track.

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